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August 29, 2003

Michael K. Powell, Chairman
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

RE: Local Number Portability
CC Docket No. 95-116

Dear Chairman Powell:

For over six years now, the wireline operating companies of SBC Communications Inc. (SBC), on whose behalf this letter is filed, have been providing local number portability (LNP) to wireline competitors. LNP was "imposed [by Congress in the Telecommunications Act of 1996] on all local exchange carriers, both incumbents and new entrants, in order to promote the pro-competitive, deregulatory markets it envisioned."¹ From the beginning, SBC has recognized the importance of LNP to competition "in the local exchange market"² and it has dedicated considerable resources to make it a reality. In fashioning the LNP mechanism, the Commission and the industry have worked to ensure that LNP achieved the goals of promoting fair local competition, protecting the public switched telephone network, and meeting the legitimate expectations of consumers.³

These same goals should apply equally to wireless LNP when it is added to the existing wireline LNP regime. Last year, the Commission extended the implementation date for wireless LNP to November 24, 2003.⁴ Part of the Commission's reasoning for delaying wireless LNP was to "allow adequate time to resolve all outstanding LNP implementation issues."⁵ Wireline-to-wireless implementation issues critical to the industry surfaced and were reported to the Commission as early as 1998 as part of the North American Numbering Council's (NANC) discussions on wireline-wireless LNP integration.⁶ These and other issues have now been made the subject of petitions filed by the Cellular

¹ *Telephone Number Portability*, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8354 ¶ 2 (1996) (*First LNP Order*).

² *Id.*

³ For example, these overarching goals are reflected in Commission rule 52.23(a), 47 C.F.R. § 52.23(a).

⁴ *Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation; etc.*, WT Docket No. 01-184, CC Docket No. 95-116, Memorandum Opinion and Order, 17 FCC Rcd 14972 ¶ 1 (2002) (*Verizon Forbearance Order*).

⁵ *Id.*

⁶ See North American Numbering Council, "Local Number Portability Administration Working Group Report on Wireless Wireline Integration," (May 8, 1998). (*NANC 1998 Wireless Wireline Integration Report*).

Telecommunications & Internet Association (CTIA),⁷ as well as the “Wireless Carrier Group.”⁸ In this letter, SBC will focus on some of these issues and the importance of ensuring that consumers receive the full benefits of LNP from all providers, regardless of the technology used, and of keeping LNP fair for all competitors in the local exchange market.

A. Porting Intervals

In the *First LNP Order*, the Commission directed the NANC to determine the technical and organizational guidelines and standards for LNP and to report those determinations to the Commission.⁹ As the Commission noted in that order, “the NANC is especially well-situated to handle matters relating to local number portability administration because of its similarity to the administration of central office codes . . . [and because b]oth functions rely heavily on the use of databases, and both involve administration of NANP resources, only at different levels.”¹⁰ The recommendations of the NANC’s report¹¹ were adopted almost in their entirety by the Commission in its *Second LNP Order*.¹² Included among these recommendations were the inter-service provider LNP operations flows, which are the foundation for the existing porting intervals.¹³ In a petition for a declaratory ruling, CTIA is seeking an order reducing the time in which service providers are required to effectuate a telephone number port.¹⁴

SBC opposes any reduction in the current porting intervals either for wireline-to-wireline porting or for wireline-to-wireless porting.¹⁵ These porting intervals were developed after an intensive review of the processes necessary for effectuating accurate number porting. As noted in the report itself, “the timeframes [in the LNP operational flows] were established to support the complex systems and work

⁷ “Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association,” CC Docket No. 95-116, January 23, 2003 (*January 2003 CTIA Petition*); “Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association,” CC Docket No. 95-116, May 13, 2003 (*May 2003 CTIA Petition*).

⁸ “Petition for Declaratory Ruling or, in the Alternative, Application for Review,” ALLTEL Communications, Inc.; AT&T Wireless Services, Inc.; Cingular Wireless, L.L.C.; Nextel Communications, Inc.; and, Sprint Corporation, CC Docket 95-116, August 1, 2003.

⁹ *First LNP Order*, 11 FCC Rcd at 8402 ¶ 95.

¹⁰ *Id.* at 8401 ¶ 94.

¹¹ North American Numbering Council, “Local Numbering Portability Administration Selection Working Group,” (April 25, 1997) (*Working Group Report*).

¹² *Telephone Number Portability*, CC Docket No. 95-116, Second Report and Order, 12 FCC Rcd 12281, 12283 ¶ 3 (1997) (*Second LNP Order*). See also 47 C.F.R. § 52.26.

¹³ *Working Group Report*, Appendix E, “LNPA Technical & Operational Requirements Task Force Report.”

¹⁴ *May 2003 CTIA Petition*, pp. 7-15. CTIA is seeking to have the Commission reduce the present interval for simple ports from four days to 2.5 hours.

¹⁵ SBC has stated that it would not oppose arrangements made between wireless carriers that would allow for shorter porting intervals.

processes of *all* the wireline Service Providers.”¹⁶ Stated another way, the current porting intervals guarantee not only that the “old service provider” correctly ports the telephone number to the “new service provider,” but also that these providers accurately update other critical systems, such as E911, billing, and maintenance. These critical systems should not be jeopardized by a desire for speed, especially if the concern is the effect of porting intervals on competition. This is so because competition has been flourishing under the existing porting interval rules. Over the past six years, wireline carriers have facilitated millions of number ports to alternate service providers using the current porting intervals. This experience demonstrates that the present rules have been a boon to competition, and not a drag on it. Using the NANC Provisioning Flows, wireline carriers have been consistently and accurately able to meet consumer expectations for number porting. Consistent and dependable number porting has allowed consumers to focus on more meaningful criteria when selecting alternative carriers. Shorter porting intervals may be feasible between wireless carriers; however, in the wireline arena, shorter intervals will impose unnecessary costs and risk accuracy for the sake of speed.¹⁷

B. Interconnection Agreements

The CTIA has also challenged the need for interconnection agreements as a prerequisite to number porting.¹⁸ SBC has argued, and continues to argue, that interconnection agreements are necessary for incumbent LEC provisioning of LNP.

For incumbent LECs, the section 252 interconnection agreement is the mechanism by which they fulfill the duties described in paragraphs (1) through (5) of subsection (b) of section 251, one of which is the duty to provide number portability.¹⁹ There are real benefits to carriers and the public alike to having the porting obligations set out in an interconnection agreement. These include the ready-made structure under which such agreements can be negotiated and approved, the public disclosure of these agreements, and the mechanism for resolving disputes that might arise both during and after contracting. The costs associated with the interconnection agreement process need not be much more expensive than arguing over the CTIA’s proposed service-level porting agreement and, once a wireless carrier has negotiated an interconnection agreement with an incumbent LEC, the other wireless carriers need only opt into the same arrangement. Indeed, most, if not all, wireless carriers have already negotiated interconnection agreements. If porting arrangements are not already part of these agreements, then the parties can merely seek to amend existing agreements to address LNP issues. Either way, interconnection agreements are essential to incumbent LEC provisioning of LNP.

¹⁶ North American Numbering Council, “Local Number Portability Administration Working Group Second Report on Wireless Wireline Integration,” § 3.3, p. 10 (June 30, 1999) (*NANC 1999 Wireless Wireline Integration Report*) (emphasis added).

¹⁷ “Reply Comments of the Association for Local Telecommunications Services,” CC Docket No. 95-116, p. 2, June 24, 2003. (ALTS Reply Comments in response to *May 2003 CTIA Petition*.)

¹⁸ *May 2003 CTIA Petition*, pp. 16-23.

¹⁹ 47 U.S.C. § 251(c)(1).

C. Notice of Proposed Rulemaking: The Rate-center Issue

Both wireline and wireless carriers have raised issues that should be fully addressed before carriers engage in wireline-to-wireless porting. Chief among the issues that need addressing is the rate-center issue. This question was first teed up by the NANC back in 1998, and was the focus of the *January 2003 CTIA Petition*.²⁰ In brief, this issue involves whether wireline-to-wireless number porting is constrained by the rate-center structure at the heart of many incumbent LEC rating schemes and state-approved tariffs. This issue has serious implications for existing state telecommunications rates and goes to the heart of full and fair competition under LNP. As existing LNP rules and architecture limit porting to within rate centers, SBC contends that the Commission must initiate a rulemaking to address this and other issues.²¹

The competitive fairness issue arises from the technical and regulatory differences between the two services. It goes without saying that wireline service is fixed and static; wireline carriers are literally tethered to their customers by wire. For the wireline carrier, rating and routing for both local and toll calls are based on the use of rate centers. Rate centers may embrace a single wire center, a portion of a wire center, or multiple wire center areas.²² Wireless service, however, is mobile, not fixed.²³ And, while not entirely deregulated, wireless carriers are not as pervasively regulated as incumbent LECs. For example, wireless carriers do not file state or federal tariffs setting out their prices. How a wireless carrier decides to structure its rates is solely a business decision. While it is true that NXX codes assigned to wireless carriers are associated with a specific wireline rate center, these assignments are made to facilitate wireline to wireless call rating.²⁴ In brief, except for interacting with wireline carriers, wireline rate centers are totally irrelevant to wireless carriers.

As explained in great detail in the *NANC 1998 Wireless Wireline Integration Report*, “[p]orting from a wireline to a wireless service provider is virtually unlimited — the end user can be physically located anywhere [—] while porting from a wireless to a wireline service provider is narrowly limited to the situation where the wireless end

²⁰ *NANC 1998 Wireless Wireline Integration Report*, Section 3: Wireless Wireline Integration Issues, pp. 3-8, and Appendix D: Rate Center Issue, pp. 31-50; and *January 2003 CTIA Petition*, pp. 5-12.

²¹ See Ex Parte Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Cronan O’Connell, Vice President – Federal Regulatory, Qwest, CC Docket No. 95-116, p. 2, dated July 24, 2003.

²² “A rate center is a geographical area [that] utilizes a common geographical point of reference, called a rating point and defined by vertical and horizontal (V/H) coordinates, for distance measurements associated with call rating.” *NANC 1998 Wireless Wireline Integration Report*, Appendix D, § 1.1, “Wireline Rating Architecture,” p. 32. The incumbent LEC’s local calling area may encompass several rate centers. Rating toll calls involves more than rate centers alone; however, they are integral to most state rating schemes.

²³ SBC notes that the statutory definition of number porting, which was adopted by the Commission for its version of “service provider porting,” limits porting to users of telecommunications services who remain “at the same location” — a phrase which is meaningless in the world of mobile telephony. See *First LNP Order*, 11 FCC Rcd at 8366-67, ¶ 27; 47 U.S.C. § 153(30).

²⁴ *NANC 1998 Wireless Wireline Integration Report*, Appendix D, p. 32.

user is physically located within the rate center associated with the NPA-NXX of the end user's telephone number. . . . [resulting in] a significant disparity in porting capabilities which would create a distinct competitive disadvantage to wireline service providers."²⁵ In other words, even though a wireless end user may live in rate center X, his wireless number may actually be associated with rate center Y, making it impossible under present LNP rules for a wireline service provider to honor a wireless customer's request to have his number ported. Porting a number outside of a rate center would constitute geographic number porting, which is not required under section 251 of the Act or the Commission's LNP orders.²⁶ Again, the Act only requires *service provider portability*. To require incumbent wireline carriers to port outside a rate center would necessitate major revisions to call classifications, local calling scopes, and pricing structures, which today are based on legacy state regulatory mechanisms

Consequently, incumbent LECs, whose local rate structures are highly regulated and who do not share the flexibility of their competitors, have legitimate rating/routing concerns in regulatory pricing mechanisms tied to the rate center structure. It would be irresponsible to ignore this regulatory reality, and it would not be in the best interests of either the industry or consumers to do so. Indeed, the Commission acknowledged this regulatory reality early on by refusing to require location portability and by assigning to the state commissions the task of evaluating whether location portability was technically feasible and desirable.²⁷ To date, no state commission has undertaken the complex task of revamping local rate structures to accommodate location portability.

SBC believes that this question of competitive fairness will not be addressed until wireline and wireless carriers have an equal opportunity to compete for *all* of each other's customers. To achieve this, SBC believes either that LEC rate center requirements and pricing controls at the state level will have to be eliminated or that wireless numbers will have to be assigned based on incumbent LEC rate center designations associated with the wireless customer's primary address. Consequently, to protect both fair competition and to avoid consumer confusion, fundamental issues,

²⁵ *Id.* at p. 39

²⁶ The Commission has formally defined service provider portability, service portability, and location portability, but has only required service provider portability. *First LNP Order*, 11 FCC Rcd at 8366-67, 8443-44, ¶¶ 27, 173-74. Location portability is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." *Id.* at ¶ 174. Under the present NANC guidelines, were location portability to be ordered by a state commission it would not be permitted outside of a rate center. See *Working Group Report*, Appendix D, § 7.3, p. 6. Geographic portability has been used informally to describe "location porting" outside the rate center.

²⁷ *First LNP Order*, 11 FCC Rcd at 8449, ¶ 186 (emphasis supplied).

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like the rate-center issue, should be addressed in a rulemaking proceeding. Therefore, SBC urges the Commission to defer inter-modal porting between wireline and wireless carriers until these issues have been fully addressed in a rulemaking proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "James C. Smith". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

CC: Commissioner Abernathy
Commissioner Copps
Commissioner Martin
Commissioner Adelstein
Legal Advisor Libertelli
Legal Advisor Tramont
Legal Advisor Brill
Legal Advisor Manner
Legal Advisor Goldstein
Legal Advisor Rosenworcel
Legal Advisor Gonzalez
Legal Advisor Feder
Legal Advisor Zaina
Legal Advisor Ohlson
Chief Maher
Chief Muleta